MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2018/2019

UCL1622 - CONSTITUTIONAL LAW II

(All Sections / Groups)

09 MARCH 2019
Reading Time : 2.30 p.m. – 2.45 p.m.
(15 Minutes)
Answering Time: 2.45 p.m. – 5.45 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt **FOUR** out of FIVE questions. **QUESTION 1 is compulsory**. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into the Examination Hall CLEAN and ORIGINAL copy of:
   i. Federal Constitution

"Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

COMPULSORY QUESTION

QUESTION 1

Adi is a member of Parliament from the People's Party of Liberty. For nearly 20 years, Adi represented his constituency, Tanjung Tinggi and was famous for being vocal in Dewan Rakyat. Since the independence, his party has been the ruling party. However, they were defeated in the recent general election by the newly formed political alliance, Pakatan Sedar. Thus, for the first time in his life, Adi now is a backbencher for the opposition party in the Parliament.

Realizing that his party is in decline of support of the people, he initiated many moves to rebrand his party in order to regain the support of the voters. One of his initiative was to establish a brand-new party's newspaper called *Suara Bebas*. He knows that the law requires him to apply for a license from the Home Minister in order to possess a printing press to print his newspaper. Regardless, the Home Minister rejected his application for license and stated that he has the authority to reject such an application as stipulated in Section 3(3) of the Printing Presses and Publications Act 1984.

In anguish, he decided to organize a rally in protest of the Minister's decision. He believes that the Minister does not have any right to decline his application as freedom of speech and press is protected under Article 10(1)(a) of the Federal Constitution. He also contended that the move by the Minister was political and unconstitutional.

Without informing the police on his planned assembly, he proceeded with rally in Padang Gurney, just 20 meters from the Hospital Kuala Lumpur. Prior to the assembly he also asked his supporters to bring over their children to the rally, and as well as weapons in order to protect themselves during the assembly. In the middle of the rally, Adi was arrested by the police, for violation of numbers of provisions under the Peaceful Assembly Act 2012. Adi was later charged in court a couple of days later. When he was arrested, Adi issued several statements through his lawyer, asking for support from the people especially the members of his party. He cited that his arrest was unjust and in clear breach of rule of law. He also stated that his arrest was racially and politically motivated. In response to his allegations, his party issued a statement that Adi was acting alone in organizing the rally and was done without the consent of the party's leadership. They also stressed that, the majority members of the party are not in support of Adi's cause.

Hearing this, Adi felt that he was betrayed by his own party members. A party that he worked for more than 20 years. In agony, he threatened to quit the party and join Pakatan Sedar instead. Realizing this, Kassim, a leader in Pakatan Sedar party proposed to the Parliament to enact an anti-hoping law in order to prevent Adi, a highly controversial figure from joining Pakatan Sedar. Again, Adi pleaded that the move by Kassim was unconstitutional.

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Adi later was found guilty by the court for his role in the Padang Gurney's assembly, and was sentenced for imprisonment. Upon the court's verdict, Adi issued a statement that the court was biased and unjust in deliberating the decision. He also accused that the sitting judge was acting solely on the direction of the Prime Minister, who happened to be the President of the ruling party, Pakatan Sedar.

In light of guarantees of freedom speech, assembly and association as provided by the Federal Constitution, along with other relevant legislations, and decided cases, advise Adi.

(Total: 25 marks)

ANSWER ANY THREE OUT OF THE FOUR QUESTIONS.

QUESTION 2

The right of freedom of religion is one of the fundamental rights guaranteed under Article 11(1) of the Federal Constitution and this provision has never been amended. Indeed, provision under the Article 3(1) echoes the right of individuals, especially the non-Muslims to profess and practise their religion at liberty, without any fear and interference. The special status of the religion of Islam enshrined in Article 3(1) does not mean that non-Muslims have no right in matter of freedom of religion despite there are several limitations provided under the Federal Constitution.

Evaluate the statement above with reference to relevant constitutional principles and decided cases.

(Total: 25 marks)

QUESTION 3

Even though the right to life and personal liberty are protected under the Federal Constitution, the exceptions provided under Article 5 are way too broad.

With reference to relevant constitutional provisions and decided cases, discuss the above statement.

(Total: 25 marks)

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QUESTION 4

Article 7 of the Federal Constitution is basically one the most fundamental right that is available under the Federal Constitution. This provision safeguards against *double jeopardy* and *ex post facto law.*

Discuss the scope and application of Article 7 of the Federal Constitution, along with the relevant cases.

(Total: 25 marks)

QUESTION 5

"Emergencies, such as war, or internal disturbance, which constitute an immediate threat to the security or economic life of the country or any part of it, may have to be dealt with more promptly. In such cases we recommend that there should be a Proclamation of Emergency, and that the Federal Government should then have power to give directions to any State Government or State officer or authority."

- Reid Commission Report, paragraphs 175

In reference to the statement above, debate the application and restrictions of Emergency Powers as provided under the Federal Constitution.

(Total: 25 marks)

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